

What is the “Raise the Age” Proposal?

On October 20, 2016, the Criminal Investigation and Adjudication Committee of the North Carolina Commission on the Administration of Law and Justice (NCCALJ) approved a recommendation that NC raise the age of juvenile court jurisdiction to include youthful offenders (16 and 17-year olds) for all crimes, except Class A-E felonies and traffic offenses. Youthful offenders in NC are currently prosecuted as adults for all crimes committed at age 16 and up.

To mitigate the costs associated with raising the age, the proposal also recommends that NC adopt state-wide expansion of existing programs to reduce school-based referrals to juvenile and criminal court (*i.e.*, the school to prison pipeline), known as “*School-Justice Partnerships*.”

Why Raise the Age?

- Only two states, NC and NY, automatically prosecute 16 and 17-year olds as adults. Forty-three states plus the District of Columbia set the age of criminal responsibility at age 18.
 - In 2016, SC and LA became the most recent states to raise the juvenile age to 18.
- The vast majority of youthful offenders commit minor crimes. In 2014, only 3.3% of youthful offenders were convicted of violent felonies (Class A-E); 80.4% were convicted of misdemeanors; and 16.3% were convicted of non-violent felonies.
- Rehabilitating youthful offenders in juvenile court results in lower recidivism, less crime, and increased public safety.
- Raising the age will produce long-term economic benefits due to lower recidivism.
 - 2009 Governor’s Crime Commission Juvenile Age Study = \$7.1 mil net benefit
 - 2011 Youth Accountability Task Force = \$52.3 mil net benefit
- The Division of Juvenile Justice has saved over \$44 million due to the significant decline in juvenile crime which can help pay for raise the age.
- Other states have successfully raised the age at a lower cost than expected.
 - *Illinois* – closed three juvenile facilities and reported a decline in juvenile crime after moving 17-year-old misdemeanants to juvenile court in 2009; as a result, the state moved all 17-year olds to juvenile court in 2013.
 - *Connecticut* – spent \$12 million less than budgeted after raising the juvenile age from 16 to 18 in 2010 and reported improved public safety.
- Research on adolescent brain development confirms that juveniles are less culpable than adults, have a greater capacity for change, and are not deterred by criminal sanctions.
- Raising the age is consistent with U.S. Supreme Court decisions (*Roper*, *Graham*, *Miller*, *Montgomery*) recognizing that most juveniles are capable of rehabilitation.

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- Raising the age will strengthen families by engaging parents in the rehabilitative process.
- “Raise the Age” Has Broad Bi-Partisan and Public Support.**

Unlike prior proposals and legislation to raise the age in NC, the NCCALJ’s proposal has broad bi-partisan support from stakeholders, including the law enforcement community which has historically opposed this reform. The proposal addresses the concerns raised by law enforcement and prosecutors about the need for greater access to information about a juvenile’s record.

The vast majority (96%) of public comments on raise the age indicated support for the proposal. A broad range of groups has also publicly endorsed the proposal, including but not limited to:

- ACLU of North Carolina*
- American Legislative Exchange Council (ALEC)
- Conservatives for Criminal Justice Reform
- Council for Children’s Rights*
- Disability Rights NC
- John Locke Foundation*
- NC Child
- NC Division of Adult Correction and Juvenile Justice
- NC Magistrates Association
- NC Police Benevolent Association
- NC Sentencing and Policy Advisory Commission
- NC Sheriff’s Association
- Office of Indigent Defense Services

**Organization does not support automatic transfer of 16 & 17-year olds for Class A-E felonies.*

Prosecutors Do Not Support the Proposal.

The Committee sought to address public safety concerns raised by prosecutors by recommending automatic transfer to superior court of 16 and 17-year olds who commit Class A-E felonies. However, the Conference of District Attorneys would support raise the age only if prosecutors were given the sole discretion to transfer 13 to 17-year olds for Class A-E felonies, without a transfer hearing. That request was based on an assertion that prosecutors are unable to successfully transfer cases under the current procedure which requires a motion and a transfer hearing before a district court judge (except that transfer is mandatory for Class A felonies at age 13). The Committee declined to adopt this recommendation because statewide data shows a 58% prosecution success rate for transfer of 13, 14, and 15-year olds, which increases to a 65% prosecution success rate when limited to 15-year olds. The Committee also favored maintaining the existing policy which vests transfer authority in judges, the only neutral party to the proceeding, to promote procedural fairness in transfer decisions.

In 2013, HB 217 proposed an amendment to G.S. 7B-2200 (the transfer statute) that would have given prosecutors greater authority to transfer juveniles age 13 and up to superior court for Class B1-E felonies. An amended version of that bill which limited the prosecutor’s transfer authority

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to 15-year olds for Class B1 and B2 felonies was passed by the House (92-26) but failed in the Senate.